

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.**

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of )  
 )  
Revision of Part 22 and Part 90 )  
of the Commission's Rules to )  
Facilitate Future Development )  
of Paging Systems )

WT Docket No. 96-18

Implementation of Section 309(j) )  
of the Communications Act, )  
Competitive Bidding )

PP Docket No. 93-253

To the Commission:

**DOCKET FILE COPY ORIGINAL**

**COMMENTS OF DATAFON II, INC. AND ZIPCALL LONG DISTANCE, INC.  
ON NOTICE OF PROPOSED RULE MAKING**

Datafon II, Inc. ("Datafon") and Zipcall Long Distance, Inc. ("Zipcall") (jointly called "Commenters") hereby oppose the Commission's proposal to institute geographic licensing in the Commercial Mobile Radio Services ("CMRS").

1. Commenters are commonly owned CMRS licensees. Datafon is the licensee of 929 MHz PCP stations in several markets. Zipcall is the licensee of several low-band CCP stations in New England. The principals of Commenters recently sold an extensive network of VHF and 929 MHz PCP paging systems and a system of radio common carrier stations on various frequencies which had been built up over 30 years. In short, Commenters have current experience with CMRS service and regulation and their principals have over three decades of experience in the industry.

2. CMRS is a mature service. Licensees operate extensive paging systems on virtually every desirable channel in virtually every area where it is economically feasible to provide service. Most applications are designed to improve coverage of existing

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systems. The licensing system works. Service is generally excellent and prices are generally low by almost any measure. There is a long history of innovation and introduction of advanced and value-added services. Carriers efficiently and competitively serve millions of users using relatively small slices of the spectrum.

3. The superimposition of a geographic licensing scheme on this mature service will undermine efforts by carriers to improve service. The sole results will be the slight possibility of raising any significant amount of money for the Treasury and the provision of grist for the "application mills". But the Commenters doubt that the auction proceeds would be substantial. There is little populated geographic area left to occupy on the superior VHF, UHF, and 900 MHz channels, and little economic area left to occupy on the less desirable low-band channels. While there may be a handful of frequencies which are still suitable for wide-area use and therefore of commercial value, they are the exception and not the rule.

4. The goal of expedition of paging service to the public which the Commission sets forth in the first paragraph of the NPRM has already been achieved. There is no lack of paging service, nationwide. When a new regulatory regime is needed for a service, there is no reason why the Commission should not consider tailoring it to the type of auction which will raise the most money. But, here, the result of territorial licensing would be to impede, rather than facilitate expansion of, service in a mature industry. In spectrum allocation, one size does not fit all. Geographic licensing may well make sense for a new service such as cellular or PCS, or in the reconfiguration of a relatively recent service where

the old licensing technique had not resulted in seamless availability, such as MMDS or SMRS. In all of those services there are relatively few frequency blocks available for each area. But for paging, local, regional, and nationwide service have been provided competitively for many years over 173 channels. As stated in the NPRM at paragraph 7, "more than 600 licensed paging operators compete for business, offering customers a wide array of options in terms of coverage area, transmission quality, system reliability, and price." There is, simply put, no problem which geographic licensing will address.

5. The theme in the NPRM is that almost all the good channels are taken in almost all the population centers (see ¶¶14, 18), but maybe a few are still around or could be reclaimed. Rather than hope that a few channels might be around which could pay for an auction and raise some revenue, the Commission should conclude that application of geographic licensing to the paging service is not in the public interest. There is no particular advantage in "regulatory symmetry" with other CMRS services, and no reason to believe that a proposal which would disrupt an entire industry would provide licensees with "greater flexibility" (NPRM ¶19). It is true, as noted in the NPRM at ¶22, that incumbents might be able to negotiate purchase of their facilities with another party prevailing in an auction. But the right to continue operating with no opportunity to expand or adjust service areas is hardly protection for incumbents' rights.<sup>1</sup>

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<sup>1</sup> For the same reason the Commission's current application freeze is extraordinarily disruptive to paging carriers and the public. Commenters urge the Commission to end the freeze immediately and permit licensees to improve their service.

In view of the lack of a problem and the difficulties posed by the Commission's proposed solution, the proposal to adopt a geographic licensing system for the paging services should be abandoned.

Respectfully submitted,

DATAFON II, INC. AND ZIPCALL  
LONG DISTANCE, INC.

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